IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13508 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

UMEDBHAI P CHAUHAN

Versus

DIVISIONAL CONTROLLER

Appearance:

MR JS BRAHMBHATT for the Petitioner.

MR YOGESH S LAKHANI for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 14/09/2001

ORAL JUDGEMENT

Rule. Mr.Devnani waives service of rule on behalf of the respondent.

The grievance of the petitioner is that in spite of the fact that the Labour Court has passed an order in Reference (LCN) No.167 of 1988, by which the petitioner

was reinstated on his original post with continuity of service with 25% back wages, the Corporation has not released his regular increments for the intervening period. Mr.Devnani for the S.T. Corporation states that since the petitioner was not in service at the relevant time, his regular increment cannot be considered for the intervening period. In my view, once it is clearly stated in the Award that the petitioner is reinstated with all benefits except back wages upto 25%, whatever benefits which are required to be given to the petitioner as if he was in physical service are required to be given to him even during the intervening period during which he was not in physical service. In view of the order of reinstatement with continuity of service, the petitioner is required to be treated as if he was in continuous service even during the relevant period. In that view of the matter, he was entitled to the benefit of regular increments which otherwise he was entitled to if he was in physical service. There is absolutely no justification to deny the benefits of increments for the intervening period, i.e. from the date of removal till he was reinstated in service. The stand taken by the Corporation is, therefore, absolutely unjust. In that view of the matter, the respondents are directed to fix the basic pay of the petitioner after taking into account his yearly increments in his pay scale and on that basis, the basic pay of the petitioner should be revised and whatever benefits of increments which are available to the petitioner during the intervening period may be given to him and on that basis, proper fixation of his salary should be made. The Corporation may complete the aforesaid exercise and re-fix the salary of the petitioner within a period of three months from today.

The petition is accordingly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

14th September, 2001 (P.B. Majmudar, J.)

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(apj)